P. F. 46193.

G. R. S. IX-5]

Previous references.

1892-93

192

(R.)

File No. 182-93

Serial Nos. 1

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 — 5

Part B for

SUBJECT.

Appeal of Basava regarding the Patels of Bharangi and Kumsheshi in the Parasgad Taluk.

Recommended

Sub.

WD 2223--GPB--20,000--14-6-20

Sub

Appeal Suit No. 54
of 1892-93.

Appellant (Plaintiff):—
Basaiya, minor by guardian and father Venkatesaiya

Respondents (Defendants):—
1 Channa Basaiya
2. Mariyappa Gowda.

Abstract of Exhibits.

4.— Report of Channabasaiya "Patel of Bharangi and Kunitteyja" to the Tahsil, dated 18th January 1892, which is to the effect that as he is unable, owing to old age and sickness, to discharge the duties of the Patel office, his younger brother-son, Irabasaiya who is a legislator and has the useful lands of the office in his hands may be appointed permitted to do the work

B.— Shekara's order to "Irabasaiya, Patel of Bharangi" dated 20th April 1892, stating that as

an order has received to the effect that he (Virabasaiya) should do the collection work of the Kodige and receipts should be handed over to him, he should appear before the Shekdar and receive them

C.— Statement of Channabasaiya (1st Defendant adoptive father.) dated 30th April 1868.—

Read Marigowda's plaint read.

× × × × ×

My father was granted a Sannad and he has working after the work. He died in 1864. Since I was sick, the lands were transferred to the Khata of my younger brother Basaiya, and he was doing the work. Since he died, the lands were transfered to the Khata of his son Virabasaiya.

× × × × ×

My father held the office till his death. Since his death, and my younger brother have been doing the work.

× × × × ×

I pray that since the "Valga" of Kanikeppa is in the name of Virabasaiya (my younger brother's eldest son) the Patti of the village should be registered in his name and the Patels "Valga" of Basaiya

5

I. Extract from the Patti Register of 1865.

" Village - Bhasangi.

The Late Patil Basa-gonda is dead. His eldest Son Channabasaiya is living. He is 40 years old. He has been doing work since 1860, without permission. ....

Hissedars —

1 Sivabasaiya
2 Channabasamma
3 Kariyappa.

Joint Hissedars —

1 Virabasaiya
2 Channabasaiya

× × × × × × "

II Amildar's Sarkhat to Channa-basaiya, Patil of Bhasangi, dated 22-10-75, communicating the Dy Commr's order appointing him to the Patili of Bhasangi, and directing him to take charge of the office from Siva-basaiya who had been doing the work as manager.

III. Sheristah Taki ó—

"Khannabaraiya, Patil of Bharanji" dated 8-11-69, communicating to him the Collector's order to the effect that his prayer for the appointment of his brother Kirabaraiya to the Patil of Khanitheffa could not be granted, and that the business stands as the work of both the villages.

IV Sanad, dated 1-9-75 granted to Khannabaraiya son of Khannabaraiya, for his appointment as Patil of Khanitheffa

1st Defendant.

S.V.

Appeal Suit No. 54 of 1892-93.

Genealogical Table.

Plaintiff.

Sivalingappa
(Died in 1887)

Basappa
(Living.)

(Sd) Virabasaiya Gouda.

"We have seen this Genealogical Table and admitted it to be correct"

(Sd) Channabasaiya

(Sd) Mari Gouda.

30-1-91.

Genealogical Table

Produced by Plaintiffs

Channabasappa Gonda
the founder of the family
(Deceased)

Virabasappa Gonda
(Died in Khara)

Mariyappa
(Living. Bachelor)
2nd Defendant.

Mari Gonda
Sannadaar
(Died in 1840)

Gurubasaiya
(Deceased).
Note.- This man is given away in adoption to another family

Channabasaiya Gonda
(Died in 1872)

Channabasaiya
(Adopted son. Living)
1st Defendant.

Irappa
(Living)

Bassaiya
(Died in 1875)

Irabasappa
(Living)

Channabasappa
(Living. Adopted by Channabasaiya)

Kariyappa Gonda
(Died about 1850)

Basappa
(Living)

Channabasappa

Mari Gonda

8

Appeal Suit No 54 of 1892-93

Appellant - Bacia minor
by his guardian
& Venkatesia

Respondents - Chenna
Bacia 1
Mariappa 2

The appellant seeks to establish his right to the Pateli of Bharangi and Kunitheppa in Sorab Taluk.

The Sub Division Officer of Sagar dismissed the appellant (Plff's) suit with costs.

The Deputy Commr of Shimoga on appeal held that the suit was time barred and confirmed the decree of the lower Court.

The appellant now urges that the decisions of the lower Courts are against the weight of

evidence, law and the probabilities of the case, and prays that they may be set aside

Ref/ruled
Hon. ruled
Hon. ruled

17/4/93

Costs to 6th July 93.
Adjourned to 31st August 93.

3/4.

10 (5)

Appeal No 54 of 1892-93

Appellant — Bansia, minor by his father Veerabasia

v. Respondent — 1. Hanmanta 2. Sangappa

Facts of the case — The plaintiff sued to recover possession of the Patil office of Shirangi and Survatta in the Savanur Taluk. Formerly there was but one Patil for the village and the office was held in one family till the defendant's great-grandfather claimed and the office was divided between them. The 2nd defendant is Sangappa's brother's son. Sangappa's father (the defendant's) held the office during his lifetime up to 1872, and the defendant's father till 1875 when he was convicted of an offence and sentenced to imprisonment. The plaintiff who was a minor at his father's death was then given the Patil of Kanitkop, and in 1878 he

was put in possession of the Parish of Bhurungi also, which at the interval was being looked after by a servant. At the Settlement of 1873, the two villages were made into two different Parish Khasras, and the Rajah obtained the Parish of Bhurungi in himself and for the 2nd Respt ~~appointed~~ appointed for Kunteshwar Durung the progress of the Suit the 2nd Respt who is an old man without a wife or children agreed to ~~have~~ remove his claim in favour of the Appt and the Defendt consented to the transfer. Accordingly the 1st Court ordered that the Parish of Kunteshwar be registered in the name of Appt and his claim ~~and~~ the Parish of Bhurungi; ~~the~~ the second Respt is absent ~~from~~ the Jurisdiction of the Court

At the hearing the Appt's Advocate urged that if the Court held that the Decision of the Privy Council had been bound by the Court below the Parish, could not be distributed, the Appt's right

(General Serial No. 32.)

189 2

2

No. 123

Name of Petitioner. Kaivath

Village. Bharanga

Taluk. Coorg

District. Shimoga

Date of Arzi. 12 — 11 — 92

Date of Receipt. 12 — 11 — 92

Date of Disposal.

No. of Enclosures. Two

ABSTRACT.

Appeal against the
order dismissing the Revn
appeal No 113-92-3 in
re Partition of Kunchabe
& Bharanga Village

14/11/92

(1) Stamp sufficient
(2) Copy produced
(3) Appeal in time
(4) Rule I (1)
of the Mod Rules
Call for report
with the usual
report BD 12.12.92

Mysore Govt. Central Press Bangalore—7-9-92,—1000.

52 15

1203 K
DATE 12-11-92

MYSORE COURT FEE

D

A.S. No 54
92-93

Petn Bor.
12/11/92

adm to
25-9-93.

In the Court of the Commissioner to
His Highness the Maharaja of
Mysore.
Revenue 2nd Appellate of 92.

Appellant
Basia, minor by
his guardian and father
Bikadasia. (Plaintiff)

Respondents
1 Chennabasia
2 Mannak, his son (Defendants).

The Appellant above named respectfully begs to appeal against the decision of the Deputy Commissioner, Shimoga Dist. in Ren. Appeal No 1 of 1892-93 for the following reasons.

I. That the plaintiff's branch of the family has been divided from that of the defendants and that the office of the Patelship in question has been held by plaintiff's grandfather and father thereby plaintiff's grandfather and father thereby even subsequent to 1875 has been duly performed by them

II. That the 1st defendant with the father & 1st defendant acted for the father of the plaintiff respectively during the minority of the plaintiff's father and has incarceration has also

III. That the defendants [illegible] the
debarred from claiming [illegible] the
office in question in their own right
by

by reason of the decision of the Court
decision. Upon this decision in
dispute, I refer to the file.

II. Defendants have utterly failed to make
out their case

III. The Lower Court has not duly con-
sidered the documentary evidence
which plaintiff has produced in this case

IV. The Lower Court have based their
decision on mere surmises

V. The Lower Court should not have
given a decree in accordance
with the terms of convention agreed to
by the parties.

VI. The Lower Appellate Court erred in
holding that the plaintiff has no
right to the office in question

VII. The Lower Appellate Court erred
in holding that plaintiff is
time-barred, plaintiff's cause of
action having accrued within

VIII. The Petition dismissed is not binding
on plaintiff

IX. The decision of the Lower Court
is against the weight of evidence
and probabilities of the case.

XII. For the foregoing reasons the
Appellant prays that the decision
of the Lower Court may be reversed
and that a decree in terms of
the plaint

Advocate for Appellant

D. Thompson Esq
Advocate for Respondent

12. 11. 92.

That the judgment of the Court
below is contrary to the Plaint
and Averments of the Petition
That the Settlement referred to
in the Petition was made by the
Settlement made by him in the year 1875.
That the Petitioners attached
copies of the notice by the Secretary
of Indian affairs.
That the Petitioners have not exhausted
their right to the other
Remedies provided. Affidavit by
Counsel that as to the 1st Respondent
the 2d Application would be
perfectly useless in the Notice of the
2d Motion to dismiss.
That the Petitioners Application
will be unavailable if the Court below
refuse to recognize the Petitioners
right in the premises.
The Lower Court did not consider
Petitioners as not the settlement in favour
of the Relators, Settlement in favour
of the Petitioners in March 1879
and not complied with by the Petitioners
Commissioner in March 1881
Under Article 16 of the Indian

Until the final order of the
Probate Commissioner has not yet been
made by the Plaintiff herein nor
thereafter until he has received
Plaintiffs letter written
formally appointed to the Police of
Waterbury or the state.
He was formerly terminated on Police
of Waterbury in 1875 — When the
defendant was formally appointed
in place of the former defendant
was formally appointed Police of
Waterbury in 1878.

At the Probate Settlement
in the following year and at the
time of the 2d defendant the 2d
defendant was appointed Police of
Waterbury by the same being stated
in the Probate Order above

That defendant is the only
one of the original Police appointed
elected or [illegible] and
the Plaintiffs Father & Judicial [illegible]
the family could not dispute said
appointment of the 2d defendant.

ಸಂಖ್ಯೆ: ಕೃಷಿ ಇಲಾಖೆಯಲ್ಲಿ ಖಾಲಿ ಇರುವ ಹುದ್ದೆಗಳ

ಹೆಸರಿಗೆ ಕೆಳಗಿನಂತೆ — ಕೃಷಿ ಇಲಾಖೆಯಲ್ಲಿ

ಇರುವ ಎರಡು ಹುದ್ದೆಗಳಿಗೆ ಅರ್ಜಿ

ಆಹ್ವಾನಿಸಲಾಗಿದೆ. ಆಸಕ್ತರು

ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಬೇಕು.

ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಲು ಕೊನೆಯ

ದಿನಾಂಕ ಮುಂತಾದ ವಿವರಗಳು

ಕೆಳಗಿನಂತಿವೆ.

ಹುದ್ದೆಯ ಹೆಸರು ಮತ್ತು ಸಂಖ್ಯೆ

ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಲು ಕೊನೆಯ

ದಿನಾಂಕ

ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಬೇಕಾದ

ವಿಳಾಸ

ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಲು ಬೇಕಾದ

ಅರ್ಹತೆಗಳು

ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಲು ಬೇಕಾದ

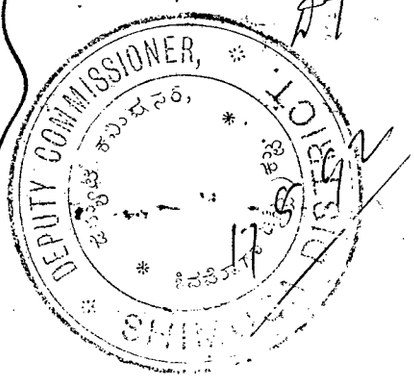
ಇತರ ವಿವರಗಳು

ಕೃಷಿ ಇಲಾಖೆಯ ಉಪ ನಿರ್ದೇಶಕರು

ಸಂಖ್ಯೆ: 3-ಕೃ-2 ಕರ್ನಾಟಕ ಲೋಕಸೇವಾ

ಆಯೋಗ ಕಚೇರಿ ಬೆಂಗಳೂರು

24



25

[illegible]
12-11-92
[illegible]

work stamp [illegible] 12/11/92

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

B. N.

[illegible signature]

Pet 637.

Board

(3)

26

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 1223

dated 22nd Nov 92 received at the

Dewan's Office from Basaiah of Kibbana

Karl Taluk, applicating against

this suit, in the Court of

Principal Limited Sub Judge

at the said Taluk,

is forwarded, together with its two

enclosures, to the A. Comm. Shimoga

Dist, for submission of Pleader

with a report on the facts of

the case and on the points

taken in the petition.

The Petition should be

returned.

By Order,

Draft. Mark 16/11/92

for Chief Secretary.

BANGALORE,

16 Nov 1892

18

L.R. 132-92-2

Dated 20 Nov 92

From the

Engd 18/11/92

(General Serial No. 30.) Notes in the margin

1892. 6770

26 DEC 92

6 Pet 314

27

From The Dy Commissioner
Shimoga District

To The Chief Secretary to the
Govt of Mysore.

Dated 22 December 1892

Despatched

Received

Enclosures No. Sir the Rs.

General No. 933 entirely.
No. 891

L.R. 132-92-2

Relative the Petition of
Basiah of Shimoga, Sorab
Taluk, praying for his
appl Name Pah dated
6.37
16th Nov and forwarding
proceedings.

In the same R.o Tuga
Dec 10-93

(4)

From 28 1892

The Dy Commissioner
Shimoga District

To

The Chief Secretary to the
Govt of Mysore

Dated 22nd December 1892.

No 231 on 3 subjects
691

Re petitioning the Petitioner
of Basiah of Bhavangi, Local Taluk,
enclosed with his Official Memo
Pet dated 16th Ultimo, has the honor
637
to forward the Proceedings in Revenue
Appeal No 1 of 1892-93 on the file of this
Court as also the proceedings of the lower
Court in the case.

* with enclosures

Abdul Rahman Khan Bahadur
Dy Commissioner

Before the Government of *His Highness* the Maharaja of Mysore. (7)

29

Appeal No. 54 of 1892-93.

Appellant: Basava, minor by his father Veerabasaia (Aff)

Vs.

Respondent: 1. Channabasaia 2. Ivarigowda (Defs)

L. R. 132-92-93

~~Decision~~ Facts of the case

The Appellant sued to recover possession of the Patali Office of Bharangi and Kunitelpu in the Sorab Taluk. Formerly there was but one Patel for both the villages and the Office was held by one Ivarigowda till 1860. The 1st defendant is Ivarigowda's eldest son and the Plaintiff his second son's grandson. The 2nd defendant is Ivarigowda's elder brother's

son Mwai Kenyatta first
son Wanyaccia Gindu
(1st defendant's father) held
the office till his death in
1892, and the Plaintiff's father
till 1895, when he was convicted
of the offence of wrongful
confinement. The 1st defendant,
who was a minor at his
father's death, was then
given the Patati of Kiambaa
and in 1902 he was put
in possession of the Patati
of Bhurungi also, which
in the interval was being
looked after by a Jumaeta.
At the Pubitia Potigi settle-
ment which took place
in 1899, the two villages
were made into two
different Patati charges,
and the 1st defendant
retained the Patati of
Bhurungi for himself

30

respect has been properly rejected. By consent of parties the Government direct that the names of both appellant and 1st Respondent be registered as holders for both the villages in suit without prejudice to each party being in exclusive possession and enjoyment of only one village in accordance with the existing arrangem

Plaintiff - Ramalingam
1st Defendant - Bhavangi

By order

Receipt

5492
31-5-16-93

Chief Secretary

Copy to the Deputy Commr Shimoga District, with the record received with his R/c

431/891 dated 22nd December 1892.

By order

Asst Secretary

should be registered in the name of the second son Channabasaiya.

D.— Petition of Channabasamma widow of Basaiya, to the Taluk Cutcherry, dated March 1858.

E.— Patell Register of 1841.

In the column of Patels "that have received Sannads from the Commr" the entry. ~~the entry is~~ against Barangi & Kunitheppa, ~~the entry~~ is — "Mari Gonda deceased. His son Basavaiya On the entry in the next column viz. of Patels ~~that~~ who have not received Sannads, is — "His son Basaiya. The last column contains the following remark.— "Since Mari Gonda who obtained Sannad died, his son Basaiya is doing the work. There is no Sannad in his name."

F.— Deposition (cty) of Channa-basaiya (1st Defendant) dated 31st March 1875.—

"Kirabasaiya was the Register-dar of the Patell of Kunitheppa. He was sentenced to suffer imprison ment and is now in jail..... I am his brother..... He has no

ther brothers..... Therefore I pray that Kirabasaiya's Patéli Registry may be transferred to my name. ..... He has no "Warasdars" except-myself. I am living with his wife.... "

C & D.— Shekdar's Takid to "Bharangi Basaiya, Gonda of Kunitheppa."

N. to O.— Shekdar's Takids of 1844, 1845, 1849, 1850, 1851 & 1854, issued to "Basaiya Patel of Bharangi."

P.— Record in Revenue Case No 12 of 1865 on the file of the Sagar Sub Dn Assistant Superintendent, Marí Gonda (2nd Deft) Channabasavaiya (adopting father of 1st Deft) The Suit was for the recovery of Patéli & the Umbli lands of Bharangi & Kunitheppa. But it was dismissed on the ground that the records did not prove the Plaintiff (in that suit) had the umbli lands in his Khata or having obtained Patéli Sanad.

to the office in question might
at least be declared. The
1 deft. stated that Pliff's name
might be registered as a
Hakdar to the Office of Bharanya
provided he himself was
registered as a Hakdar to the
Office of Kumitappa.

decision. The Court is
in possession of the
facts of Bharanya
case 1878 as Hakdam.
Pliff cannot be permitted to turn
and his claim in
this respect has been
properly rejected. By
consent of parties
the Court direct that
the names of both
Appt & Resp. be
retained as Hakdars
in both the Schedules
in suit without pre-
judice to such Hakdam

13

× Pfl – Kunde

11

In the Court of the Deputy Commissioner
Shimoga District
This 12th day of August 1892.
Present:- Abdul Rahiman B.A.
Deputy Commissioner

Revenue appeal No. 10 of 1892-93

Appellant
Basiah (minor)
His guardian and father
Veer Basiah

Respondents
1. Channa Basia
2. Mariappa Gowda

Judgment

This is an appeal against the decree passed by the Sub-Division Officer Sagar dismissing the suit instituted by the appellant (Plaintiff) against the Respondents (defendants) in original suit No. 5 of 1891-92 on the file of his Court claiming the Kotli offices of Bharangi Kumthepasu the Sorab Taluk

The grounds of appeal are as follows.
That the decision of the Lower Court

is based upon inferences and surmises not warranted by facts and records of the case.

2. That neither of the defendants nor their father is Lawful Suckdar to the office in dispute.

3. That the plaintiff and his ancestors are the lawful Suckdars to the offices in dispute.

4. That the defendants are clearly debarred to assert their right to the offices in dispute by the decision in Original suit No 12 of 65 on the file of the Sagar Sub Division and by the Statement of the 1st defendants father.

5. That it is false that the 1st defendants' father held the office for a period of about 33 years and it is not satisfactorily proved.

6. That the defendants' succeeded to the office in their own right is not established and it is contrary to the records connected with the offices.

7. That the Lower Court erred in drawing inferences contrary to the records that Basiah officiated for his elder brother under a private arrangement.

8. That the decision of the Lower Court is against Law, evidence and probabilities of the Case

It may be seen that the Plaintiff or his father could have no claim to either office. 2d defendant is an old man of 70 years without a wife or issue. His statement before the Amildar dated the 22d April 91, he renounced his appointment in favour of the Plaintiff. whose father is now willing to his minor son being appointed Patel of Kunethippa. 1st defendent-living in joint interest with the 2d defendent- consents to the arrangement- Vide their statements taken down before the Court yesterday.

By consent of the parties therefore I decree that the Pateli of Kunithippa be registered in the name of the Plaintiff, the decree of the Lower Court being affirmed as regards the Patelship of Bharangi. Appellant to bear his own cost. No cost incurred by the defendents.

(Signed) Abdul Rahman.
Deputy Commissioner

Compared
HH.

"True copy"

Gregory Coelho
17.8.92
Revenue Sheristadar
Shimoga District

Copy applied for 13-8-92
ready for delivery 16-8-92
delivered - - - 17-8-92
No. of words 742
Transcription fee 0-12-0
Comparing fee 0-2-8
0-14-8

31

~~himself~~ and got the 2d defendant appointed for Kunitappa. During the progress of the suit the 2d defendant, who is an old man without a wife or children, agreed to renounce the office in favor of the Plaintiff, and the 1st defendant consented to the transfer. Accordingly the Deputy Commissioner ordered that the Patali of Kunitappa be registered in the name of Plaintiff and his claim to the Patel-ship of Bharangi dismissed. The present appeal is against the rejection of this portion of the Plaintiff's claim.

2. At the hearing the Plaintiff's advocate prayed that if the Court held

that the possession of the 1st defendant who had been found by the Courts below to be a Hulkdar, could not be disturbed, the Plaintiff's right to the Office in question might at least be declared. The 1st defendant stated that Plaintiff's name might be registered as a hakdar to the Office of Bharangi provided he himself was registered as a Hakdar to the Office of Kunitappa.

Decision

The 1st Respondent is in possession and enjoyment of the Office of Bharangi since 1878 as hakdar. Plaintiff cannot be permitted to oust him and his claim in this

No 1203
A.S. 52.

34

(6)

Office of the Dewan Pesh'ar
Petition Dept.
10/25 - September 1893.

Endorsement granted to Bassia, minor, by his father & guardian Virabasia of Bharangi in the Surat Taluk, in reply to his Petition No 1203/854 of 1892-93, appealing against the order of the Dy Comm^r of Shirinya dated 12th August 1892 regarding the Patelii of Bharangi.

Petitioner is informed that he cannot be permitted to oust the 1st Respt Channabasia who has been in possession and enjoyment of the Patelii of Bharangi since 1878 as Hakdar, but that by consent of parties the names of both the Petitioner and 1st Respondent Channabasia will be registered as Hakdars for both the villages of Kunitoppa and Bharangi without prejudice to each party being in exclusive possession and enjoyment of only one village (namely Petitioner, of Kunitoppa, and the 1st

Respondent Ramanbasiks of 35
Bharanji) in accordance
with the existing arrange
-ment.

By order

Chief Secretary

Draft

11.10.19